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high — the counterbalancing tendencies are slight. Accordingly, the courts usually allow the jury to consider the appearance of the person whose age is in question. *Commonwealth v. Hollis*, 170 Mass. 433, 49 N. E. 632; *State v. Thomson*, 155 Mo. 300, 55 S. W. 1013. See WIGMORE, EVIDENCE, § 222. *Contra*, *Ihinger v. State*, 53 Ind. 251. But the fact that appearance is clearly relevant is not decisive of the question whether opinion of non-experts based upon appearance is competent. The general rule for the admission of non-expert opinion is that the facts upon which it is based must be such that they cannot adequately be described to the jury, and they must be such as can be readily comprehended by an ordinary observer. See *Commonwealth v. Sturtivant*, 117 Mass. 122, 133; WIGMORE, EVIDENCE, § 1924. Such testimony is really a necessary summary of facts. Under this rule, non-experts have been allowed to give their opinions that a person was insane, or scared, or intoxicated, or even that a spot was made by blood. *Connecticut Mutual Life Ins. Co. v. Lathrop*, 111 U. S. 612; *State v. Ramsey*, 82 Mo. 133; *People v. Eastwood*, 14 N. Y. 562; *Greenfield v. People*, 85 N. Y. 75. Opinion as to age, based on appearance, meets these conditions, and so most courts have admitted it. *State v. Bernstein*, 99 Iowa 5, 68 N. W. 442; *Jones v. State*, 32 Tex. Cr. App. 108, 22 S. W. 149. Cf. *Commonwealth v. O'Brien*, 134 Mass. 200. See *Elsner v. Supreme Lodge*, 98 Mo. 640, 645, 11 S. W. 991, 992; WIGMORE, EVIDENCE, § 1974. *Contra*, *Marshall v. State*, 49 Ala. 21. Moreover, the application of the rules governing this sort of evidence should rest in the discretion of the trial court, and its decision ought not, ordinarily, to be reversed by a reviewing court. See THAYER, PRELIMINARY TREATISE ON EVIDENCE, § 16.

EVIDENCE — TESTIMONY OF PARTIES IN SUIT FOR DIVORCE — MUTUAL CORROBORATION. — In a suit for divorce on the ground of adultery, the petitioner testified to the fact and another witness testified to a full confession by the respondent. By the settled law of the state neither the uncorroborated confession of the defendant nor the uncorroborated testimony of the petitioner is sufficient to warrant a decree. *Held*, that a divorce cannot be granted on mutual corroboration. *Garrett v. Garrett*, 98 Atl. 848 (N. J.).

The law of the state in the principal case that a decree of divorce will not be granted upon the uncorroborated testimony of the petitioner is supported by numerous other jurisdictions. *Reid v. Reid*, 112 Cal. 274, 44 Pac. 564; *Grover v. Grover*, 63 N. J. Eq. 771, 50 Atl. 1051. See MINN. GEN. STAT. 1913, § 8465. See 3 WIGMORE, EVIDENCE, § 2046. *Contra*, *Baker v. Baker*, 195 Pa. St. 407, 46 Atl. 96. So likewise the rule that a decree will not ordinarily be granted upon the uncorroborated confession of the respondent has much support. *Betts v. Betts*, 1 Johns. Ch. (N. Y.) 197; *Kloman v. Kloman*, 62 N. J. Eq. 153, 49 Atl. 810. See 3 WIGMORE, EVIDENCE, § 2067. But it cannot be laid down as either logically or legally impossible that two pieces of evidence, either insufficient alone, should be mutually corroborative. See JOY, EVIDENCE OF ACCOMPLICES, 100 ff. Whether mutual corroboration is equivalent to corroboration *aliunde* must depend upon the reason why corroboration is required in each case. The requirement that the petitioner's testimony be corroborated is merely a survival, in large part, of the ancient rule of the Roman and Canon law that more than one witness is necessary to prove any fact. See 3 WIGMORE, EVIDENCE, §§ 2032, 2046. Therefore, since the respondent is a second witness, his confession is sufficiently corroborative. But the reason for refusing to grant a decree on the uncorroborated confession of the respondent is more than merely quantitative; it is the danger of collusion. It should not be within the power of the parties to sever the marriage relation at will. *Holland v. Holland*, 2 Mass. 154. Corroboration by the petitioner cannot, therefore, satisfy this rule. And, since both rules must be satisfied to warrant a decree, the decision in the principal case must follow. Such is the conclusion reached in other cases. *Johnson v. John-*

son, 182 S. W. 897 (Ark.); *Rie v. Rie*, 34 Ark. 37; *Hayes v. Hayes*, 144 Cal. 625, 78 Pac. 19. But if the confession is made in open court the danger of collusion is lessened. So some courts have held that the petitioner's testimony is then sufficient corroboration. *Smith v. Smith*, 119 Cal. 183, 48 Pac. 730; *Hague v. Hague*, 95 Atl. 192 (N. J.).

**FEDERAL COURTS — JURISDICTION BASED ON DIVERSITY OF CITIZENSHIP — INTERPLEADING A CLAIMANT WHO IS A CITIZEN OF THE SAME STATE AS THE PLAINTIFF.** — The plaintiff bank, a New York corporation, was sued for a deposit, in a federal court, by a New Jersey corporation. The plaintiff, thereupon, brought a bill in the nature of an interpleader in the same court, praying that two citizens of New York and a New York corporation, claimants for the same fund, interplead in the suit. The original claimant contended that the bill, if allowed, would deprive the court of its jurisdiction, which was based on diversity of citizenship. *Held*, that the bill be granted. *Sherman Nat. Bank v. Shubert Theatrical Co.*, 56 N. Y. L. J. 1087 (Dist. Ct., S. D., N. Y.).

Diversity of citizenship, sufficient to create federal jurisdiction, is only achieved when all parties plaintiff are citizens of different states from all parties defendant. *Strawbridge v. Curtiss*, 3 Cranch (U. S.) 267. Yet actions may be "controversies between citizens of different states," even though parties not from different states are, at various times, involved in the determination of the suit. Thus, a bill to set aside a fraudulent conveyance which would, if unhampered, defeat an original decree over which the federal court had jurisdiction has been sustained without regard to the citizenship of the parties. *Hobbs Mfg. Co. v. Gooding*, 164 Fed. 91. See 22 HARV. L. REV. 304. So any proceeding which may be truly considered ancillary to an original proceeding, in which the court has jurisdiction, has been held maintainable without reference to citizenship. *Root v. Woolworth*, 150 U. S. 401. See *New Orleans v. Fisher*, 180 U. S. 185, 196. It is true that from the point of view of the old chancery courts, any bill to enjoin a suit at law was an original bill. The federal courts, however, regard such as merely supplementary to the original suit. *Freeman v. Howe*, 24 How. (U. S.) 450, 460; *Minnesota Co. v. St. Paul Co.*, 2 Wall. (U. S.) 609, 633. But an interpleader involves not alone an injunction — it involves the determination of the true owner of the claim. Can it be said that the determination of whether two strangers to the original suit are the owners of the claim, even though it involves the determination of whether the original claimant is the owner or not, is truly ancillary to the original proceeding? An early case has so held without discussion. *Stone v. Bishop*, 4 Cliff. (U. S.) 593. While the result may be desirable, the logic is not conclusive.

**INJUNCTIONS — ACTS RESTRAINED — PUBLICATION OF PHOTOGRAPH WHEN EXCLUSIVE PHOTOGRAPHIC PRIVILEGES HAVE BEEN GRANTED TO ANOTHER.** — The promoters of a dog show purported to assign the sole photographic rights in connection with the show to the plaintiffs. The defendants who had knowledge of the concession took photographs of the show and published them in their magazine. The plaintiffs seek an injunction restraining the further publication of the photographs. *Held*, that the injunction do not issue. *Sports & General Press Agency v. "Our Dogs" Publishing Co.*, [1916] 2 K. B. 880.

It is generally recognized that the literary or artistic producer has a property right in his creations. After publication such right may be protected only by copyright. *Pierce-Bushnell Co. v. Werckmeister*, 72 Fed. 54. But before publication, the common law will recognize and protect original literary and artistic property. So the right of a professor to restrain the publication of lectures orally delivered in his classroom, has been established. *Caird v. Sime*, L. R. 12 A. C. 326. An author has a similar property in his composition. *Millar v. Taylor*, 4 Burr. 2303, 2315; *Palmer v. De Witt*, 47 N. Y. 532; *Macklin v.*